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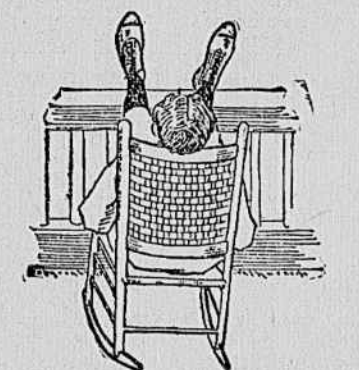
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COURT DECISIONS.

Notes of Cases Recently Decided, Which are of Interest to Our People.

DIGESTED BY W. B. MARTIN.
(Exclusively for Virginian-Pilot.)

ELDRED V. ELDRED.

Supreme Court of Appeals of Virginia, November 16, 1899.

THE EXISTENCE OF A MARRIAGE IS TO BE DETERMINED BY THE WEIGHT OF THE EVIDENCE. GENERALLY IN CIVIL CASES IT MAY BE PROVED BY REPUTATION, DECLARATIONS AND CONDUCT OF THE PARTIES.

THE DECLARATIONS OF THE PARTIES, &C., ARE ADMISSIBLE TO SHOW MARRIAGE AS PART OF THE RES GESTAE, BUT MUST BE CONTEMPORANEOUS.

A PRESUMPTION OF MARRIAGE ARISING FROM THE CONDUCT OF THE PARTIES AND GENERAL REPUTATION MAY BE OVERCOME BY OTHER EVIDENCE, BUT IT MUST BE COGENT AND SATISFACTORY.

The only question in this case was whether E. B. Eldred, deceased, and Zella Keiner had been married. The lower court held that they had married and the defendants appealed.

The Court says: No witness is produced who professes to have any knowledge of a marriage between these parties. No certificate of marriage is produced, and therefore the declarations of E. B. Eldred and the conduct of the parties are alone relied on to raise the presumption of their marriage.

Marriage may, doubtless be proved in civil cases, other than actions for seduction, by reputation, declarations and conduct of the parties; but where reputation is relied on, that reputation, to raise the presumption of marriage, must be founded on general, not divided or singular opinion; and where reputation in such case is divided, it amounts to no evidence at all. And so with respect to the declarations of the parties, the value of such declarations as evidence will always depend upon the circumstances under which they were made. If parties live together ostensibly as man and wife, demeaning themselves toward each other as such, and especially if they are received into society and treated by their friends and relations as having and being entitled to that status, the law will, in favor of morality and decency, presume that they have been legally married. But cohabitation and repute do not constitute marriage; they are only evidence tending to raise a presumption of marriage, and, like any other presumption of fact, may be overcome by countervailing evidence.

The declarations of parties and other attendant circumstances of cohabitation, all of which are admissible, as part of the res gestae, to show a virtuous intercourse between man and woman, must, together with the repute originating in consequence, be contemporaneous with that intercourse and not subsequent.

The presumption of marriage from cohabitation apparently matrimonial is one of the strongest presumptions known to the law. Where there is enough to create a foundation for the presumption of marriage it can be repelled only by the most cogent and satisfactory evidence. But in every case the presumption of virtue and lawful marriage may be rebutted and cohabitation alone is not sufficient proof of marriage; there must appear a matrimonial cohabitation, and this justified by contemporaneous behavior of the parties, such as should furnish society the reputation of marriage.

[The Court considers at great length the evidence in the case and coming to the conclusion that no marriage had been proved concludes:] We are of opinion that the decree appealed from is erroneous and should be reversed and annulled. Reversed.

JENKINS V. DANIEL.

Supreme Court of North Carolina, November 7, 1899.

WHERE A POWER OF SALE IN A MORTGAGE DID NOT FIX THE PLACE OF SALE, A FAIR SALE MADE ON THE PREMISES, IN THE PRESENCE OF THE PARTIES INTERESTED AND WITHOUT OBJECTION, WILL NOT BE SET ASIDE BECAUSE NOT MADE AT THE COURT HOUSE DOOR.

This was a suit to set aside a sale made under a mortgage. There was a judgment of the defendants and plaintiffs appealed.

The court says: The plaintiffs admit in their complaint that there was about \$200 due on the note of the 10th of August, 1888, at the date of the sale. But they allege that, as no place was named in the power of sale contained in the mortgage, the sale should have been made at the court house in Greene county; that, on account of the sale not having been so made, the land sold for much less than its value.

We do not think the other grounds urged by plaintiffs invalidate the sale. It is found by the referee to have been open and fair, and that the plaintiff J. H. Jenkins was present and did not object; that the land brought a fair price, and, according to the evidence (in the opinion of the intelligent referee), as much as it would have brought if sold at the court house of Greene county, which was a considerable distance from the land; and that there was no place specified as to where the sale should take place. The sale being valid, it conveyed the title

to the land to the purchaser, Speight, free from any trust relations between him and the mortgagors, and she is not liable to account for rents and profits or for waste.

WITH THE CHURCHES.

ON "THE CHURCH IN NEW TESTAMENT METAPHOR"—NOTES.

Rev. Ben. C. Herr, the new pastor of the Freeman Street Church of Christ (Disciples), preached Sunday morning on "The Church in New Testament Metaphor," to a large congregation.

Following is a synopsis of his sermon: "Concisely stated, a metaphor is the name of one thing applied to another by reason of some resemblance. We say that life is a battle; life is a vapor; life is a journey, because in its struggle and turmoil it resembles a battle; in its evanescence it resembles a vapor; in its progress it resembles a journey.

"Each figure contains one prominent and essential likeness, no one is a complete figure. But taken together, battle, vapor, journey, give quite an adequate metaphorical representation of life.

"The Church of Christ is by the inspired writers thus figuratively represented, no single metaphor completely setting it forth, but all taken together, with their germinant ideas, are required. Thus: In I Cor. 3, the church is a building or temple erected upon Christ who is the foundation. The members are the material—gold, silver, precious stones, wood, hay, stubble. The leading idea being interdependence of the parts, based upon the character of the material and its ability to stand the trial by fire. The wood, hay and stubble will perish, and those dependent upon them will suffer. Take care what character of material is bulled into the church—the half-converted, the impenitent and the worldly minded. So, the church again is a body—(Christ) Head over all things to the church which is His body." The leading idea is dependence upon the head for life, guidance and a profitable use of labor. As the hand depends upon the head so church members depend upon Christ.

"Again, the church is a family—Jesus Christ of whom the whole family in heaven and earth is named. Fraternity is the idea. Brothers and sisters of Christ—like all families part here and part above—the church militant and the church triumphant.

"The pillar and ground of truth." The idea of support—a pedestal supporting the statue of verity, truth.

"A bride. The most beautiful of all representations. The idea of purity, sweetness and above all loyalty to one—Christ, the bridegroom. A faithless bride and a faithless church are the distress of men and God.

"All of these figures collectively set forth the differing aspects of the church.

"How does your church answer to these figures? A building—is it largely of wood, hay, stubble? A body—is Christ its head, its source of guidance, or has it severed from the head? A family—How about its fraternity—its brotherly love? Pillar and ground of truth—how sweetly 'contending for faith' once delivered to the saints." A bride—how about its loyalty to one lover—Christ? Has it other lovers?

"To be a great church is to answer aright to the above. A great preacher, great building, great throne, great choir cannot make a great church, but conformity to the divine ideal can."

RELIGIOUS NOTES.

Rev. Dr. C. E. Grammer, of Christ Church, and Rev. B. D. Tucker, D. D., of St. Paul's Episcopal Church, exchanged pulpits Sunday morning.

Rev. Dr. G. B. Strickler, of Union Theological Seminary, Richmond, preached twice Sunday at the Second Presbyterian Church. His sermon, at night was on "Christ, the Way, the Truth and the Life." It was characterized by the Doctor and an able effort.

A young colored minister named Brown was ordained by Bishop Randolph at Grace Episcopal Church Sunday morning.

The semi-annual communion at the Christian Science Church was well attended Sunday. No bread and wine were used. The service consisted in kneeling in silent communion, closing with repeating the Lord's prayer audibly and in unison.

At the morning service at Cumberland Street M. E. Church Sunday Rev. Dr. H. E. Johnson announced that he had begun a canvass for subscriptions to build a new church on the site donated by Mr. Frank Quach, and that twenty-two members had subscribed \$10,400. The estimated cost of the new edifice is \$30,000.

METHODIST PREACHERS.

ENCOURAGING REPORTS FROM CHARGES AND CURCUIITS.

The Methodist preachers met in regular weekly session at 11:30 a. m. yesterday, and was called to order by the president, Rev. R. M. Chandler. Prayer was offered by Rev. Dr. W. E. Judkins, presiding elder of the district.

Rev. J. T. Whitley, of the First Church, Hampton, was present and gave an interesting account of the work in his section.

Rev. R. F. Beades reported two accessions at Central Church, Portsmouth, and large congregations.

Dr. Judkins said he was gratified to be with the preachers again, and hoped for them a successful year in their labors. He reported that he began his work in the district Sunday, preaching at Queen Street in the morning and at Cumberland Street Church at night.

Rev. J. N. Latham had pleasant services with large congregations at Park View, Portsmouth, Sunday. Rev. W. C. Vaden preached in the morning and the night service was conducted by the pastor.

Rev. R. T. Waterfield stated that Rev. V. W. Benjamin, who has been sick for several days, is now at the Norfolk Protestant Hospital and that he would be glad to receive a visit from his brethren in the ministry.

Rev. J. F. Carey, of Port Norfolk, received nine new members.

Rev. Dr. A. Coke Smith preached to large congregations Sunday at Epworth, and had one application for membership.

Rev. N. A. Robertson reported that he had entered upon his labors on the Norfolk circuit and would do all he could for the upbuilding of the church.

Rev. George E. Booker reported interesting services at Wright Memorial, Portsmouth, and a large missionary meeting in the afternoon.

Rev. Graham H. Lambeth received

five new members at LeKies' Memorial and had large congregations and profitable services.

Rev. George Wesley Jones received three new members at Trinity and preached to large congregations at both services.

Rev. John W. Carroll preached to large and interested audiences and had seven accessions to the membership at Lambert's Point.

The order of the day was announced by the reading of a paper by Dr. H. E. Johnson.

The conference sang the hymn, "All Hail the Power of Jesus' Name," and an eloquent invocation was made by Rev. J. L. Whitley.

Dr. Johnson read an able and exhaustive paper on "The Influence of Jesus."

On motion of Dr. Judkins, Dr. Johnson was unanimously requested to have the article published in pamphlet form for general circulation.

Rev. S. C. Hatcher, of Queen Street, who had one accession to his membership Sunday, was appointed to conduct the devotional exercises in his own way the first Monday after the second Sunday in January.

After some discussion of the manner in prosecuting the work of raising the Twentieth Century Fund, the meeting adjourned.

BAPTIST PASTORS.

PAPER DAY—THE ORPHANAGE—A WEEK'S WORK.

Rev. E. E. Dudley, of Norfolk, occupied the chair, at the Baptist Ministers Conference yesterday morning. It was "paper" day, and Dr. J. J. Taylor, of Freeman street, read a very able and instructive paper, the title of which was "The Preacher and His Bible."

Mr. Henry Smeltz, of Hampton, one of the trustees of the Baptist Orphanage, Salem, Va., was present and made a very interesting statement of some of the plans for the enlargement of the buildings, especially the one so badly needed, and to be known as the administration building, and to cost \$25,000.

Rev. J. T. Riddick, of Gilmerton, received one by letter.

Rev. S. S. Robinson, of South Norfolk, received three by letter.

Dr. J. J. Hall, of Norfolk, is confined to his bed. Rev. Tyree Whitehurst supplied for him both morning and night.

Dr. A. E. Owen, of Grace Church, Norfolk, received two for baptism.

Rev. T. C. Skinner made a missionary address for Rev. G. W. Cox at Lambert's Point.

Dr. Garrett, of Portsmouth, had four professions of faith and baptized two since last report.

Pastors E. E. Dudley, of Norfolk, and W. F. Fisher, of Portsmouth, exchanged pulpits Sunday morning.

There was one profession of faith at the Fourth Street Baptist Church at the night service.

Revs. W. F. Hines and W. F. Fisher aided Dr. A. B. Dunaway, of Port Norfolk, in ordaining a deacon Sunday afternoon.

Dr. A. B. Woodfin, of Hampton, baptized fourteen and received one by experience since last report.

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A Most Remarkable Remedy That Quickly Restores Lost Vigor to Men.

A Free Trial Package Sent by Mail to All Who Write.

Free trial packages of a most remarkable remedy are being mailed to all who write the State Medical Institute. They cured so many men who had battled for years against the mental and physical suffering of lost manhood that the Institute has decided to distribute free trial packages to all who write. It is a home treatment and all men who suffer with any form of sexual weakness resulting from youthful folly, premature loss of strength and memory, weak back, varicocele, or emaciation of parts can now cure themselves at home.

The remedy has a peculiar grateful effect of warmth and seems to act direct to the desired location giving strength and development just where it is needed. It cures all the ills and troubles that come from years of misuse of the natural functions and has been an absolute success in all cases. A request to the State Medical Institute, 478 Elektron Building, Ft. Wayne, Ind., stating that you desire one of their free trial packages will be complied with promptly. The Institute is desirous of reaching that great class of men who are unable to leave home to be treated and the free sample will enable them to see how easy it is to be cured of sexual weakness when the proper remedies are employed. The Institute makes no restrictions. Any man who writes will be sent a free sample, carefully sealed in a plain package so that its recipient need have no fear of embarrassment or publicity. Readers are requested to write without delay.

Imagine the heights an artist would reach who employed a dummy model in his work.

Dummy patterns serve as the model in ready-made manufacturing. The tailor, like the artist, goes by living models. Each customer is a model here, and each model is provided with an organ for registering complaints when they are in order.

Suits cut from and made for the model that is to wear them: \$16, \$18, \$20, \$25 and \$30.

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M. E. SUNDAY SCHOOLS.

INTERESTING MEETING OF THE ASSOCIATION.

The regular quarterly meeting of the Norfolk M. E. Sunday School Association was held at McKendree Church Sunday afternoon at 3 o'clock with the president, Prof. W. M. Jones, in the chair. The meeting was called to order and hymn No. 310, "America," was sung and Rev. W. R. Proctor, of McKendree, led in prayer.

Mr. H. Ashby Williams delivered an interesting and instructive address on "The Sunday School Teacher—His Duties and Responsibilities." He laid stress on the importance of example and a knowledge of God's word.

The reports of the schools for the months of October and November were read and the banners awarded as follows:

October—Attendance, Cumberland Street, 77.35 per cent.; punctuality, Epworth, 72.40 per cent.; contributions, Epworth, \$2.01 per member.

November—Attendance, McKendree, 75.61 per cent.; punctuality, Cumberland Street, 73.00 per cent.; contributions, McKendree, \$27.53 per member.

Solo "Nearer My Home"—was sung by Miss Mary K. Ewell, of Epworth.

Rev. Graham Lambeth, of LeKies Memorial, delivered an address on the "Importance of Bible Teaching in the Sunday School," the great object lesson for which this department of Christian enterprise is intended.

Hymn No. 11—"There is Sunshine in My Soul"—was sung.

Under the head of miscellaneous business, a request of the McKendree Mission school for a contribution of \$50 was presented by G. B. Ferebee and, on motion, the request was granted.

Dr. J. W. Webster called attention to the superintendent's pocket record and advised its use by the superintendents of the association.

A motion to appoint a committee to prepare a form of quarterly report for the use of the schools, and to empower the committee to secure the same in time for the next meeting, was adopted and the chair appointed the following: W. E. Rew, J. N. Webster and W. W. Vicar.

Hymn No. 73—"Footprints of Jesus"—was sung, and a collection of \$2.44 was reported.

The doxology was sung, the benediction pronounced by Rev. W. R. Proctor and the association adjourned to meet with Epworth school the second Sunday in March at 3 o'clock.

OTHER LOCAL ON PAGE 6

BEECHAM'S PILLS make life worth living
Cure Bilious and Nervous Disorders.
10 cents and 25 cents, at drug stores.

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Those wishing to see a good assortment of first class goods in the items mentioned below:

Fine Carving Sets—
Table Knives—
Stag, Celluloid, Bone, Ivory and Silver Plated handles.

All Grades Silver Plated—
Tea, and
Table Spoons,
Forks,
Child's Sets,
Knife, Fork and Spoon,
Nut Cracks and Picks.

Nickle Plated—
Nut Picks and Cracks,
Cuspadors,
Coffee Pots,
Crumb Pans, with Brushes or Scrapers.

Large assortment of—
Pocket Knives, 5c. to \$2.50
Scissors, in cases,
Flobert, and
Air Rifles,
Child's Fancy Trays,
Razors and Strops,
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Roller, and
Ice Skates,
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Banner Oil Heaters,
Chicago Air-Tight Wood Heaters.

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—handily situated, and hold
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OVERCOATS—every grade—every style—short or long—rough or smooth fabric—\$10 to \$50.

BUSINESS SUITS—Cheviots and Homespuns in popular Oxford and greenish mixtures—\$18.

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WHITE SHIRTS—Williamsville muslin—best linen bosom—four styles—\$1.00.

NECKWEAR—every favorite shape—every fashionable conceit in pattern and coloring—50c. to \$3.

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SMOKING JACKETS,
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BATH ROBES,
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SILVER MOUNTED UMBRELLAS,
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